

## HUMAN SERVICES BOARD

## INTRODUCTION

## FINDINGS OF FACT

Please let me hear from you by March 1, 2007, so that I will have enough time to process your review before March 15, 2007. If I do not hear from you at all, your benefits will end as of March 31, 2007 for all programs. If you have any questions about this notice, please call me at the number listed above.

2. Having heard nothing from the petitioner, on March 15, 2007 the Department sent the petitioner a notice that her VHAP benefits would "end on March 31, 2007" due to her failure to respond to the review "reminder letter". The notice included the following:

IMPORTANT: If you disagree with this action, you may ask for a fair hearing. See back of this notice for details.

The petitioner admits she received this notice, but stated she thought it was only a "warning".

3. Having heard nothing from the petitioner, the Department terminated her VHAP benefits effective April 1, 2007.

4. On April 5, 2007 the Department received an Application for Health Care Assistance signed by the petitioner, and dated "4/ /07" (the day having been left blank).

5. At the hearing the petitioner testified that she mailed this application before March 31, 2007. Her testimony in this regard, as well as her assertion that she had not understood the March 15, 2007 termination notice, was not credible.

6. On April 5, 2007, the same date it received the petitioner's application, the Department sent the petitioner

a notice that she was eligible for VHAP as of that date, April 5, 2007.

7. The petitioner maintains that between April 1 and 4, 2007 she incurred out-of-pocket expenses for prescription drugs and that on April 4, 2007 she incurred a bill for a session of physical therapy, none of which were covered by VHAP during the lapse in her coverage.

8. The petitioner testified that between April 1, 2007 and April 15, 2008 she made several phone inquiries with the Department about the lack of coverage for this period, and that she was mistakenly told at one point that the problem was one of "prior approval". Thus, the petitioner maintains, she did not file an appeal in this matter until April 15, 2008, because she was "confident" she could "fix" the problem through phone calls. She does not allege, and there is no indication whatsoever, that the Department ever discouraged the petitioner from filing an appeal.

ORDER

The petitioner's appeal is dismissed as untimely.

REASONS

As a general matter, the regulations provide that “[i]ndividuals who have been disenrolled from the VHAP program must file a new application for the program before eligibility may be reestablished”. W.A.M. § 4002.3. Once such an individual reapplies, VHAP Managed Care enrollment begins “the first of the month after the department has received and processed the full premium payment”. W.A.M. § 4002.32. Another provision of the regulations provides that “limited” VHAP coverage (as opposed to “full” coverage under VHAP Managed Care) can be granted “between the date the department determines eligibility and the date full coverage begins”. W.A.M. § 4002.31.

In this case, even if the petitioner’s appeal could be considered timely, there is no credible evidence that the Department did not provide clear, accurate, and timely notice of all its decisions to the petitioner, including her right to appeal. The evidence also establishes that the petitioner, however inadvertently, allowed her VHAP coverage to lapse on March 31, 2007 by not returning her review application in a timely manner. The evidence is also clear that the Department reinstated the petitioner’s coverage on

the same date it received her review application, and that this action was in accord with the VHAP regulations. Thus, even if timely, the petitioner cannot prevail on the "merits" of her appeal.

The above notwithstanding, the petitioner's appeal in this matter was not filed until more than a year had passed after the Department's decision. Although the petitioner (less than credibly) maintains that she was orally misinformed of the reasons for non-coverage between April 1 and 4, 2007, this neither explains nor excuses her delay in appealing this matter. Inasmuch as the petitioner's appeal in this matter was not filed within the 90-day time limit, it must be dismissed. Fair Hearing Rule No. 1000.2A (formerly Rule No. 1).

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